

Serial No. 09/661,153  
Amdt. dated September 30, 2003  
Reply to Office Action of July 2, 2003

Docket No. UIOWA-8P4D1

### **REMARKS/ARGUMENTS**

Claims 8-10, 12-15, 40-44 and 52-79 are pending in this application. By this Amendment, claims 53, 56-58, 60 and 62 are amended, and claims 54 and 55 are cancelled. Reconsideration and withdrawal of the rejections in view of the foregoing amendments and the following remarks are respectfully requested.

#### **I. Allowable Claims**

The Examiner is thanked for the indication that claims 8-10, 12-15, 40-44, 52 and 63-70 are allowed. The Examiner is also thanked for the indication that claims 55, 57, 59-61, 72, 74-76 and 78-79 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. However, for at least the reasons set forth below, Applicant respectfully submits that all pending claims are in condition for allowance.

#### **II. Claim Rejection 35 U.S.C. §102**

##### **A. Rosenberg**

The Office Action rejects claims 53, 54, 58, 62, 71, 73 and 77 under 35 U.S.C. §102(b) over U.S. Patent No. 5,100,395 to Rosenberg (hereinafter "Rosenberg"). Claim 54 has been cancelled and the rejection thereto is moot. The remaining rejections are respectfully traversed.

1. Claims 53, 54, 58 and 62

By this Amendment, Applicant has amended claim 53 to incorporate the subject matter of claim 54 and the allowable subject matter of claim 55. Claims 54 and 55 have been cancelled. Accordingly, claim 53 is in allowable condition. Claims 58 and 62 are allowable at least for the reasons discussed above with respect to independent claim 53, from which they depend, as well as for their added features. Applicant respectfully requests that the rejection of claims 53, 58 and 62 be withdrawn.

2. Claims 71, 73 and 77

Applicant respectfully submits that Rosenberg is directed to a fluid drain for wounds. As shown in Figures 1 and 5, the fluid drain includes a drain tube 2 which has a valve housing 18 on a first end and tubelets 4, 6, and 8 on a second end. The valve housing 18 includes first and second one-way valves, 34 and 35, and is connected to a suction pump. The first one-way valve 34 allows fluid to flow in only one direction through the drain tube 2. The tubelets 4, 6 and 8 are connected to the drain tube 2 by a receiving sleeve 9. The tubelets 4, 6 and 8 are terminated by ends which have multiple openings 12. Each tubelet 4, 6 and 8 is laterally connected to one another with webs 11. The subcutaneous tubelets 4, 6 and 8 are integrally formed on the sleeve 9, and the sleeve 9 is fixed by adhesive to the respective end of the drain tube 2.

In operation, tubelets 4, 6 and 8 are inserted under a patient's skin into a wound. The portion of the drain tube 2 having the valve housing 18 is exposed externally of the patient's skin and a vacuum is applied through the first one-way valve 34 and drain tube 2 to the tubelets 4, 6 and 8. The suction applied to the subcutaneous tubelets 4, 6 and 8 draws fluids from the area around the wound down the drain tube 2 and through the valve assembly 18 to a container for disposal. The first one-way valve 34 allows fluid to be withdrawn from the wound, but prevents fluid from flowing along the drain tube 2 from the first end towards tubelets 4, 6 and 8 and into the wound.

As shown in Rosenberg, the tubelets 4, 6 and 8 are permanently glued to an end of a drain tube 2 by the sleeve 9, and are not protrusibly located (i.e. cannot be extended or retracted) within the sleeve 9. Additionally, the sleeve 9 is not a macrocatheter but rather is a tubing connector designed to permanently fix the tubelets 4, 6 and 8 to the drain tube 2. Furthermore, the first one-way valve 34 in the valve housing 18 will block any flow of fluid along the drain tube 2 towards the tubelets 4, 6 and 8, as would be required for drug infusion.

Consequently, Rosenberg fails to disclose or suggest a drug infusion device having a macrocatheter and a plurality of microinfusion catheters protrusively disposed non-coaxially side-by-side within the microcatheter configured to receive a drug and infuse the drug into a tissue of a patient, as set forth in claim 71. Thus, claim 71 is in allowable condition. Claims 73 and 77 are allowable at least for the reasons discussed above with respect to independent claim

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71, from which they depend, as well as for their added features. Applicant respectfully requests that the rejection of claims 71, 73 and 77 be withdrawn.

**B. Jones or Safar**

The Office Action rejects claims 53, 54, 58 and 62 under 35 U.S.C. §102(b) over U.S. Patent No. 4,248,224 to Jones (hereinafter "Jones"), or U.S. Patent No. 5,308,320 to Safar et al. (hereinafter "Safar"). Claim 54 has been cancelled and the rejection thereto is moot. The remaining rejections are respectfully traversed.

As discussed above, Applicant has amended claim 53 to incorporate the allowable subject matter of claim 55. Accordingly, claim 53 is in allowable condition. Claims 58 and 62 are allowable at least for the reasons discussed above with respect to independent claim 53, from which they depend, as well as for their added features. Applicant respectfully requests that the rejection of claims 53, 58 and 62 be withdrawn.

**C. Delgado**

The Office Action rejects claims 53, 54, 56 and 62 under 35 U.S.C. §102(b) over U.S. Patent No. 3,640,269 to Delgado (hereinafter "Delgado"). Claim 54 has been cancelled and the rejection thereto is moot. The remaining rejections are respectfully traversed.

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As discussed above, Applicant has amended claim 53 to incorporate the allowable subject matter of claim 55. Accordingly, claim 53 is in allowable condition. Claims 56 and 62 are allowable at least for the reasons discussed above with respect to independent claim 53, from which they depend, as well as for their added features. Applicant respectfully requests that the rejection of claims 53, 56 and 62 be withdrawn.

**D. Nakao**

Finally, the Office Action rejects claims 53-54 and 62 under 35 U.S.C. §102(e) over U.S. Patent No. 5,458,582 to Nakao (hereinafter "Nakao"). Claim 54 has been cancelled and the rejection thereto is moot. The remaining rejections are respectfully traversed.

As discussed above, Applicant has amended claim 53 to incorporate the allowable subject matter of claim 55. Accordingly, claim 53 is in allowable condition. Claim 62 is allowable at least for the reasons discussed above with respect to independent claim 53, from which it depends, as well as for its added features. Applicant respectfully requests that the rejection of claims 53 and 62 be withdrawn.

**III. Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that the application is in condition for allowance. If the Examiner believes that any additional changes


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would place the application in better condition for allowance, the Examiner is invited to contact the undersigned attorney, **Randall H. Cherry**, at the telephone number listed below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this, concurrent and future replies, including extension of time fees, to Deposit Account 16-0607 and please credit any excess fees to such deposit account.

Respectfully submitted,  
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